



## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2020-0090; Notice 1]

#### Nissan North America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Receipt of petition.

**SUMMARY:** Nissan North America, Inc. (Nissan) has determined that certain replacement windshield glass panes manufactured by Central Glass Co., Ltd., outsourced to Japan Tempered & Laminated Glass Co., Ltd., and sold to Nissan as replacement parts for use in certain Nissan motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 205, *Glazing Materials*. Nissan filed a noncompliance report dated June 29, 2020. Nissan subsequently petitioned NHTSA on July 29, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Nissan's petition.

**DATES:** Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.

- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal holidays.
- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at <https://www.regulations.gov> by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477-78).

## **SUPPLEMENTARY INFORMATION:**

### **I. Overview:**

Nissan has determined that certain replacement windshield glass panes manufactured by Central Glass Co., Ltd., outsourced to Japan Tempered & Laminated Glass Co., Ltd., and sold to Nissan as replacement parts for use in certain Nissan motor vehicles do not fully comply with the requirements of paragraph S6.2 of FMVSS No. 205, *Glazing Materials* (49 CFR 571.205).

Nissan filed a noncompliance report dated June 29, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Nissan subsequently petitioned NHTSA on July 29, 2020, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Nissan's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

### **II. Windshields Involved:**

Approximately 1,934 replacement windshield glass panes sold as replacement service parts, manufactured between April 1, 2000, and April 30, 2012, are potentially involved. These replacement windshield glass panes were manufactured by Central Glass Co., Ltd., who subsequently outsourced to a subsidiary company, Japan Tempered & Laminated Glass Co., Ltd., and sold to Nissan as replacement parts for Nissan motor vehicles

### **III. Noncompliance:**

Nissan explains that the noncompliance is that subject replacement windshield glass panes manufactured by Central Glass Co., Ltd., who subsequently outsourced to a subsidiary

company, Japan Tempered & Laminated Glass Co., Ltd., and sold to Nissan as replacement parts for use in certain Nissan motor vehicles contain the incorrect manufacturer's code mark and therefore, do not meet the requirements set forth in paragraph S6.2 of FMVSS No. 205.

Specifically, the subject replacement windshield glass panes were marked with manufacturer code DOT44, which applies to Central Glass Co., Ltd., when they should have been marked, DOT166, which applies to Japan Tempered & Laminated Glass Co, Ltd (JTLG).

#### **IV. Rule Requirements:**

Paragraph S6.2 of FMVSS No. 205 includes the requirements relevant to this petition. A prime glazing manufacturer certifies its glazing by adding to the marks required by section 7 of ANSI/SAE Z26. 1–1996, in letters and numerals of the same size, the symbol “DOT” and a manufacturer's code mark that NHTSA assigns to the manufacturer. NHTSA will assign a code mark to a manufacturer after the manufacturer submits a written request to the Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The request must include the company name, address, and a statement from the manufacturer certifying its status as a prime glazing manufacturer as defined in S4.

#### **V. Summary of Nissan's Petition:**

The following views and arguments presented in this section, “V. Summary of Nissan's Petition,” are the views and arguments provided by Nissan. They have not been evaluated by the Agency and do not reflect the views of the Agency. Nissan describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Nissan offers the following reasoning:

1. Nissan states that although the manufacturer code is incorrect, the certification mark affixed to the subject parts features the correct AS Item number and model number (i.e., M number). In addition, the windshield glass panes were fabricated in full

compliance with the technical requirements of 49 CFR §571.205 applicable to laminated glass for use in motor vehicles.

2. Nissan says that many of the 1,934 windshield glass components that may contain an incorrect manufacturer's code are located in non-U.S. markets. For this reason, Nissan believes the actual number of subject parts is substantially lower than the 1,934 possible windshield glass panes because only a small number of potentially affected windshield glass panes were shipped to the U.S. market for use as service parts between April 1, 2000, and April 30, 2012.
3. Nissan also states that the part number remains accurate, despite the manufacturer's code discrepancy. The subject noncompliance, accordingly, is unlikely to result in the use of an incorrect replacement part in an OEM application because the part would be ordered using Nissan's unique part number and not the "DOT" number. In Nissan's ordering system, parts with the incorrect manufacturing code are indistinguishable from parts with the correct code. In fact, the parts are traceable to Central Glass Co., Ltd., since the incorrect code used by their subsidiary, JLTG is the code for the parent company, Central Glass Co., Ltd.
4. Nissan believes that there is a low likelihood of a vehicle requiring this replacement part because the average age of potentially affected vehicles (MY 1991–1999) is 25+ years old. Currently, only one replacement windshield glass service part (727120M010) is in stock and available. However, Nissan instructed the Sagamihara Part Center in Japan to suspend shipment for this part. Even so, if a vehicle previously received or were to receive a subject replacement part, the part fully complies with the technical requirements of 49 CFR §571.205. In no way is the actual safety aspect of the windshield glass compromised by the misprinted manufacturer's code.

5. Nissan contends that in similar situations, NHTSA has granted the applications of other petitioners. For example, 80 FR 3737 (January 23, 2015) Petition by Custom Glass Solutions Upper Sandusky Corporation.

- “Custom Glass explains that the noncompliance is that the labeling on the subject laminated glass panes does not fully meet the requirements of paragraph S6 of FMVSS No. 205. The panes were labeled with the incorrect manufacturer’s code mark, incorrect manufacturer’s trademark, and incorrect manufacturer’s model number, and were incorrectly marked as Tempered.”
- Nissan cited NHTSA, saying “NHTSA believes that the subject labeling errors are inconsequential to motor vehicle safety because the marking of glazing as ‘Tempered’ or ‘Laminated’ is not required by FMVSS No. 205, the probability of anyone in the United States obtaining the subject incorrectly marked glazing as replacement glazing is very unlikely since the affected glazing is specifically designed for use in mining vehicles manufactured by Atlas Copco in Australia. In addition, there is no concern that the wrong model number on the subject glazing would result in an incorrect replacement part being used because replacement parts are ordered by referring to the glazing part number or by identifying the vehicle for which the replacement glazing is intended.”

Nissan concludes by again contending that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or

noncompliance. Therefore, any decision on this petition only applies to the subject vehicles and equipment that Nissan no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle and equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles and replacement windshield glass panes under their control after Nissan notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

**Otto G. Matheke III,**

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[FR Doc. 2021-07507 Filed: 4/12/2021 8:45 am; Publication Date: 4/13/2021]